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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,216	07/17/2006	Julian Cabanas Falcon	OT-5370	2712

7590
Lisa A. Bongiovi
Otis Elevator Company
10 Farm Springs
Farmington, CT 06032

EXAMINER

KRUER, STEFAN

ART UNIT	PAPER NUMBER
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3654

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08/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,216	Applicant(s) CABANAS FALCON ET AL.	
	Examiner Stefan Krueer	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>17 July 2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

It is noted that this application appears to claim subject matter disclosed in prior Application No. PCT/IB2004/000676, filed 9 March 2004. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76).

Since the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c).

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Specification

The disclosure is objected to because of the following informalities:

Page 1, Line 11, "... betweeen" should be written as "... between".

Review for typographical errors and appropriate corrections are required.

Drawings

The drawings are objected to because the quality of the drawings, notably with respect to the drafting of the numerical designations, lead lines and figure numbers, are inferior to that as provided in the prior Application No. PCT/IB2004/000676. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 - 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, Line 3, recites the limitation "the" in "the bottom".

Claim 2, Line 2, recites the limitation "the" in "the car door sill bracket".

Claim 3, Line 3, recites the limitation "the" in "the underside".

There are insufficient antecedent bases for these limitations in the claims.

Furthermore with respect to **Claim 4**, the claim recites “strengthening bracket(s) is/are” whereas **Claim 3** from which **Claim 4** depends recites “strengthening brackets”, thereby the claimed subject matter is indefinite for reciting a plurality in the alternative.

Additionally, the numerical designation of the aforementioned element of the claims is not consistently referenced in the claim language.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 - 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori et al (WO 02/060802).

Re: Claims 1 – 3, Mori et al disclose an elevator car (1, Fig. 2) comprising:

- a single, rigid toe guard member (7b, Fig. 2) slidably mounted to the bottom of the car so as to be slidable upwards in the event that the toe guard member strikes the bottom (13a) of a hoist way pit (13).
- wherein the toe guard member is slidably mounted to a car door sill bracket (7a).
- one or more strengthening brackets (8) that depend downwardly from the underside (6) of the car, said toe guard member being slidably mounted to said bracket(s).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mori et al.

Mori et al disclose an elevator car comprising strengthening brackets (8) that depend downwardly from the underside (6) of the car, said toe guard member being slidably mounted to said brackets, and said brackets are rigid; however, Mori et al are silent with respect to their length to that of the toe guard member.

Nevertheless, it would have been an obvious to one of ordinary skill in the art, as a matter of optimization and experimentation, to provide the said brackets as shorter than said toe guard, in as much as a selection of a length of said bracket is a matter of design preference and application.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mori et al in view of Martin (4,556,129).

Mori et al are silent with respect to a safety switch arranged to stop the elevator in the event that the toe guard member is pushed to the uppermost end of its travel.

Attention is directed to Martin who teaches his safety switch (54, 60 - 65, Fig. 2 and Fig. 4) arranged to stop his elevator in the event that his toe guard (44) his "...deflected to an extent less that that required to permit an (sic) object to be clamped...." (Abstract), thereby an upper(most) end of allowable travel, for purpose of safety.

It would have been obvious to one of ordinary skill in the art to modify the reference of Mori et al with the teaching of Martin for safety.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rivera et al (6,095,288), Baumann (2004/0206581) and Ketonen (7,350,627) are cited for an elevator having a retractable toe guard, a slidable sill plate, and a telescoping toe guard with by-passable safety switch, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571.272.6856. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/

Examiner, Art Unit 3654

20 August 2008

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654